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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,029	03/13/2000	Cynthia S. Bell	ITL-0333US (P8221)	6169
21906	7590	09/29/2010	EXAMINER	
TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			BODDIE, WILLIAM	
ART UNIT	PAPER NUMBER		2629	
MAIL DATE	DELIVERY MODE			
09/29/2010	PAPER			

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CYNTHIA S. BELL

Appeal 2009-012661
Application 09/524,029
Technology Center 2600

Before ROBERT E. NAPPI, KENNETH W. HAIRSTON, and
JOSEPH F. RUGGIERO, *Administrative Patent Judges*.
HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. §§ 6(b) and 134 from the final rejection of claims 1, 2, 5, and 6. We will reverse.

The disclosed invention relates to a method for automatically adjusting a brightness for a display based upon an indicator of ambient light on the display (Figs. 3, 6; Spec. 6-12; Abstract).

Claim 1 is the only independent claim on appeal, and it reads as follows:

1. A method comprising:

receiving an indicator of the ambient light on a display by accumulating energy into a plurality of sensors of an imager, deriving an integration time based upon the accumulated energy and determining the indicator based upon the integration time; and

automatically adjusting a brightness for the display based upon the indicator of ambient light on the display.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Nishibe	US 4,847,483	July 11, 1989
Helms ²	US 5,760,760	June 2, 1998
Murakami (Japanese Patent Publication)	JP 08-242398	Sept. 17, 1996

The Examiner rejected claims 1, 2, 5, and 6 under the first paragraph of 35 U.S.C. § 112 for lack of written description.

² Although the Examiner did not list this reference in the evidence relied upon, the statement of the rejection discusses it in the rejection of claims 2 and 5 (Final Rej. 5; Ans. 6).

The Examiner rejected claims 1 and 6 under 35 U.S.C. § 103(a) based upon the teachings of Murakami and Nishibe.

The Examiner rejected claims 2 and 5 under 35 U.S.C. § 103(a) based upon the teachings of Murakami, Nishibe, and Helms.

Turning first to the lack of written description rejection, the Examiner contends (Final Rej. 3) that the specification lacks any discussion reciting the specific limitation of “the detected ambient light is the ambient light *on a display*.” Appellant argues (App. Br. 10) that the rejection should be reversed because “[i]t is not believed that there is any such limitation in the claim.” We agree with Appellant’s argument. Thus, the lack of written description rejection of claims 1, 2, 5, and 6 is reversed.

Turning next to the obviousness rejection of claims 1 and 6, the Examiner contends (Final Rej. 4) that Murikami determines an indicator “by averaging the luminance over the entire image plane [0026], and therefore the determination of the indicator is not based upon an integration time derived on the basis of the accumulated energy.” According to the Examiner (Final Rej. 4) “it is conventional in the art to determine the level of ambient light by deriving an integration time of an image sensor based upon accumulated light energy and using the value of the integration time as a determinate of light level as disclosed in Nishibe et al. (column 1, lines 12-13 and 41-42; column 2, lines 28-31).” Based upon the teachings of the references, the Examiner concludes (Final Rej. 5) that it would have been obvious to one of ordinary skill in the art “to employ in Murakami the method taught in Nishibe et al. to determine the indicator in order to enable

the device to perform in an ambient environment having a large range of light levels and to reduce the time and burden of image processing.”

Appellant agrees (App. Br. 10) with the Examiner’s admission *supra* that Murakami does not teach “deriving an integration time based on accumulated energy and determining an indicator of the ambient light on a display based on integration time,” and argues (App. Br. 10) that Nishibe “only teaches measuring light intensity, not controlling display brightness.”

We agree with Appellant’s argument. Nishibe measures light intensity via a photosensor that produces a current that is integrated by an integration circuit. The intensity of the received light is indicated as the time required for the integration value of the integrating circuit to reach a predetermined value after the start of the integration operation (Abstract; col. 2, ll. 16 to 41).

In summary, the obvious rejection of claims 1 and 6 is reversed because the cited references neither teach nor suggest adjusting “a brightness for the display” based upon an indicator of ambient light that was derived based upon an integration time as set forth in claim 1.

Turning lastly to the obviousness rejection of claims 2 and 5 based upon the teachings of Murakami, Nishibe, and Helms, we note that a prior Decision by the Board in the subject application dated June 18, 2007 concluded that “Helms relates to controlling the brightness of a display but ‘does not use an integration time’” (Decision, 6). Thus, the obviousness rejection of claims 2 and 5 is reversed because the applied references neither teach nor suggest adjusting display brightness based upon an integration time as set forth in the claims on appeal.

Appeal 2009-012661
Application 09/524,029

The decision of the Examiner is reversed.

REVERSED

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